

Remarks

Applicant requests reconsideration of the present application in light of the following remarks.

Claims 11-15, 27-30, and 32-42 remain pending. Claims 11 and 27 are independent.

Claims 11-15, 27-30, and 32-42 are rejected. Applicant traverses these rejections.

Request for Examiner Interview if Any Issues Remain

If any issues remain after entry of the present Amendment, Applicant formally requests that the Examiner contact the undersigned attorney *before issuing the next Office Action* to arrange a telephonic interview pursuant to MPEP § 713.01.

Claims 11-15, 27-30, and 32-42 are Patentable over Ito and Sitrick under 35 USC § 103(a)

The Office Action (“Action”) rejects claims 11-15, 27-30, and 32-42 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pub. No. 2003/0121401 of Ito (“Ito”) in view of U.S. Patent No. 6,084,168 to Sitrick (“Sitrick”). Applicant traverses these rejections.

Claims 11-15 and 32-38

Independent claim 11 is directed to a system of music devices operatively coupled together, and recites the following features (with emphasis added):

- plural apparatus in physical proximity with each other and capable of at least one-way communication therebetween of an audio score,
- at least two such apparatus each comprising:
 - an audio score synthesis mechanism including a playing mechanism for playing the synthesized audio score;
 - an audio score mixing mechanism coupled with said synthesis mechanism for mixing plural audio scores to produce another audio score having components of each of the plural audio scores;
 - an audio score input mechanism coupled with said mixing mechanism to provide one or more input audio scores thereto for mixing with the synthesized and played audio score,
- said synthesis mechanism, said mixing mechanism and said input mechanism being operable in real time to create a playable audio score having components of plural audio scores produced by said plural proximate apparatus;*
- a recording mechanism to store said playable audio score; and*
- an upload mechanism to upload said playable audio score to an external processor for at least one of editing, archival recording, outplaying, and CDROM programming.*

The combination of Ito and Sitrick fails to teach or suggest plural proximate apparatus that each comprise “a recording mechanism to store said playable audio score,” as recited in independent claim 11. For example, Ito merely describes an external storage device 75, *see, e.g.*, FIG. 3, that includes “recording media [to] store *various programs* as well as *various data used for implementing various functions* of this apparatus,” *see* paragraph [0043] (emphasis added).

The Action at page 3 asserts that “Sitrick also discloses that each workstation (for example, Fig. 1A) comprises a memory 115 for storing audio scores (Col. 8 lines 7-40) which reads on” the recited “recording mechanism.” However, Applicant submits that the cited portion of Sitrick actually specifies that “[t]he user can select *an original musical composition* from the touch screen of the liquid crystal display (135)” and “[t]he processor responds by *storing that composition in the memory (115)* of the local workstation of the user as requested” (emphasis added).

Indeed, Applicant submits that the memory (115) of Sitrick is clearly for storing an original musical composition selected by a user and, therefore, is not for storing “a playable audio score having components of plural audio scores produced by said plural proximate apparatus” as recited in the claim. Consequently, Sitrick does not teach or suggest the recited “recording mechanism.”

Furthermore, Ito and Sitrick fail to teach or suggest plural proximate apparatus that each upload a playable audio score to an external processor as recited in the claims, let alone plural proximate apparatus that each comprise “an upload mechanism to upload said playable audio score to an external processor for at least one of editing, archival recording, outplaying, and CDROM programming,” as recited in independent claim 11.

The Action at page 3 asserts that “a master mode [of Sitrick] (Col. 9, lines 30-40; Col. 17 lines 3-12) reads on” the recited “upload mechanism.” However, Applicant submits that the cited portions of Sitrick merely describe “conductor stands and performer stands” and “a master/slave linked environment.” Col. 9, lines 30-40 provides that, unlike a performer stand, a conductor stand “has the ability to *select the musical score, change the key of the musical composition, and perform other tasks that only a conductor would be permitted or required to do*” (emphasis added).

Applicant submits that neither of the cited portions, nor any other portion of Sitrick teaches or suggests a mechanism for uploading the recited “playable audio score” for “at least one of editing, archival recording, outplaying, and CDROM programming.” Therefore, Sitrick does not teach or suggest the recited “upload mechanism.”

Because the combination of Ito and Sitrick does not teach or suggest every feature recited in independent claim 11, the 35 U.S.C. § 103(a) rejection of the claim should be withdrawn and such action is respectfully requested.

Dependent claims 11-15 and 32-38 depend from independent claim 11 and should be allowed for at least the same reasons that pertain to the parent claim 11. Consequently, the 35 U.S.C. § 103 rejections of the claims should be withdrawn.

Dependent claims 11-15 and 32-38 are also independently patentable. For example, the combination of Ito and Sitrick fails to teach or suggest “a central session host computer, said central session host computer comprising said external processor,” as recited in dependent claim 32. For example, Applicant directs the Examiner’s attention to the Specification of the present application at page 11, lines 18-23, which states that “e.g. a central ‘session host’ computer such as desktop PC 12, laptop PC 12’ or equivalent.”

The Action at page 4 asserts that “Sitrick discloses: a central session host computer 105C, said external processor 115.” However, Applicant notes that reference number 105C of Sitrick does not refer to a *central session host computer*; rather, 105C of Sitrick merely refers to one of the “network of workstations” that the Action at page 3 appears to equate with the “plural apparatus in physical proximity with each other” as recited in the parent claim 1.

Accordingly, dependent claim 32 and its dependent claims 33 and 34 should be allowed for at least these additional reasons.

Claims 27-30 and 39-42

Independent claim 27 is directed to a musical system, and recites the following features (with emphasis added):

- a wireless network; and
- plural portable musical apparatus in physically separated proximity with each other and capable of two-way communication therebetween of an audio score over said wireless network, each musical apparatus including:
 - an audio score synthesis mechanism;
 - an audio playing mechanism coupled with said network;

an audio input mechanism coupled with said network;
an audio score mixing mechanism coupled with said synthesis mechanism, said input mechanism and said playing mechanism, said mixing mechanism configured to mix a first audio score from said synthesis mechanism with a second audio score from said input mechanism to produce in real time a playable audio score having components of each of the first and second audio scores; and

at least one of a recording mechanism and an upload mechanism, said recording mechanism to store said playable audio score, and said upload mechanism to upload said playable audio score to an external processor.

Ito and Sitrick fail to teach or suggest plural proximate apparatus that each store a playable audio score as recited in the claims, as noted above. Ito and Sitrick also fail to teach or suggest plural proximate apparatus that each upload a playable audio score to an external processor as recited in the claims, also noted above.

Consequently, the combination of Ito and Sitrick fails to teach or suggest plural musical apparatus that each include “at least one of a recording mechanism and an upload mechanism, said recording mechanism to store said playable audio score, and said upload mechanism to upload said playable audio score to an external processor,” as recited in independent claim 27.

Because the combination of Ito and Sitrick does not teach or suggest every feature recited in independent claim 27, the 35 U.S.C. § 103(a) rejection of the claim should be withdrawn and such action is respectfully requested.

Dependent claims 28-30 and 39-42 depend from independent claim 27 and should be allowed for at least the same reasons that pertain to the parent claim 27. Consequently, the 35 U.S.C. § 103 rejections of the claims should be withdrawn.

Dependent claims 28-30 and 39-42 are also independently patentable. For example, dependent claims 41 and 42 both recite features that are substantially similar to features recited in dependent claim 32 and discussed above. Consequently, dependent claims 41 and 42 should be allowed for at least the additional reasons pertaining to dependent claim 32 as presented above.

Conclusion

Applicant submits that the present application is in condition for allowance and such action is respectfully requested.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Justin D. Wagner", with a long horizontal flourish extending to the right.

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